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NOTICE OF ALLOWANCE AND FEE(S) DUE

05514 7590 04/13/2004

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

JOHNSON, TIMOTHY M.

ART UNIT

PAPER NUMBER

2625

DATE MAILED: 04/13/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,155	04/26/2001	Hiroki Kishi	862.C2209	6896

TITLE OF INVENTION: ENCODING APPARATUS AND ENCODING METHOD

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1330	\$300	\$1630	07/13/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

Applicant claims SMALL ENTITY status.
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail**

**Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
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or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

05514 7590 04/13/2004

**FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112**

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

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nonprovisional	NO	\$1330	\$300	\$1630	07/13/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
JOHNSON, TIMOTHY M	2625	382-240000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
 "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____
 2 _____
 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent); individual corporation or other private group entity government

4a. The following fee(s) are enclosed:

- Issue Fee
 Publication Fee
 Advance Order - # of Copies _____

4b. Payment of Fee(s):

- A check in the amount of the fee(s) is enclosed.
 Payment by credit card. Form PTO-2038 is attached.
 The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature)	(Date)
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NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMIT THIS FORM WITH FEE(S)



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05514	7590	04/13/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				JOHNSON, TIMOTHY M
ART UNIT		PAPER NUMBER		
		2625		
DATE MAILED: 04/13/2004				

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 657 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 657 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

Notice of Allowability

Application No.	Applicant(s)	
09/842,155	KISHI, HIROKI	
Examiner	Art Unit	
Timothy M Johnson	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to _____.
2. The allowed claim(s) is/are 1-24.
3. The drawings filed on 26 April 2001 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 3
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

Claim for Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119 (a)-(d), which papers have been placed of record in the file.

Allowable Subject Matter

2. Claims 1-24 are allowed.
3. The following is an examiner's statement of reasons for allowance:

For claims 1, 19, and 21, the prior art of record, does not suggest, in combination with the claim as a whole, separating image and sound data in a frame, encoding the separated image data in sequence from a lower to a higher frequency component, encoding the separated sound data in sequence from a lower to a higher frequency component, generating header information using the image encoded data and the sound encoded data, and generating frame encoded data using the header, the image encoded data, and the sound encoded data.

For claims 8, 20, and 22, the prior art of record, does not suggest, in combination with the claim as a whole, separating the image and sound data in a frame, hierarchizing the image data into a types of image data and encoding the types of image data, thus generating image encoded data corresponding to levels, hierarchizing the sound data into a types of sound data and encoding the types of sound data, thus generating sound encoded data corresponding to levels, and generating frame encoded data using the image encoded data and the sound encoded data, where frame encoded data is generated by forming groups of different levels by grouping the image encoded

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data and sound encoded data belonging to the same level determined on the basis of a predetermined reference, and arranging the groups in descending order of significance level.

Hirayama et al., 5,715,356 – provides for the coding of both audio and video into a compressed frame in c. 4, line 36 – c. 5, line 17, including header data for synchronizing the image and speech data. Hirayama further provides for separating, inter alia, audio and video data, and for the compression of the audio and video data in the paragraph bridging cols. 8-9. The header information of Hirayama includes, inter alia, the starting position of the audio and video data in c. 14, lines 17-28.

Fielder et al., 6,446,037 – provides for organizing coded audio data into layers from a hierarchical transform in which coded audio data is arranged according to resolution so that augmentation layers provide for higher resolution in the paragraph bridging cols. 9-10, and the paragraph bridging cols. 5-6 and the first full paragraph in c. 6. The header data of Fielder includes configuration and frame rate data in the first and second full paragraph in c. 22.

Aono et al., 6,259,735 – provides for ordering the spatial-frequency subbands for transmission for all components of the YUV color space based on resolution in the abstract and c. 12, line 20-27, the second full paragraph in c. 18, and the paragraph bridging cols. 22-23, for example. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

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Kudumakis et al., Wavelet Packet Based Scalable Audio Coding, provides for a scalable audio coding system using two stages that scales in terms of quality using the wavelet transform in the abstract and Fig. 1 on pages 41 and 44.

Citation of Relevant Prior art

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hirayama et al., 5,715,356 – provides for the coding of both audio and video into a compressed frame in c. 4, line 36 – c. 5, line 17, including header data for synchronizing the image and speech data. Hirayama further provides for separating, inter alia, audio and video data, and for the compression of the audio and video data in the paragraph bridging cols. 8-9. The header information of Hirayama includes, inter alia, the starting position of the audio and video data in c. 14, lines 17-28.

Fielder et al., 6,446,037 – provides for organizing coded audio data into layers from a hierarchical transform in which coded audio data is arranged according to resolution so that augmentation layers provide for higher resolution in the paragraph bridging cols. 9-10, and the paragraph bridging cols. 5-6 and the first full paragraph in c. 6. The header data of Fielder includes configuration and frame rate data in the first and second full paragraph in c. 22.

Aono et al., 6,259,735 – provides for ordering the spatial-frequency subbands for transmission for all components of the YUV color space based on resolution in the

abstract and c. 12, line 20-27, the second full paragraph in c. 18, and the paragraph bridging cols. 22-23, for example.

Kudumakis et al., Wavelet Packet Based Scalable Audio Coding, provides for a scalable audio coding system using two stages that scales in terms of quality using the wavelet transform in the abstract and Fig. 1 on pages 41 and 44.

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M Johnson whose telephone number is 703-306-3096. The examiner can normally be reached on Monday – Friday from 5:30 to 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh M. Mehta, can be reached on Monday – Friday from 9:30 to 5:00. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Timothy M. Johnson
Patent Examiner
Art Unit 2625
April 11, 2004

Timothy M. Johnson
TIMOTHY M. JOHNSON
PRIMARY EXAMINER